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NO. 82-1135

IN THE
SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 1982

W.J. ESTELLE, JR., DIRECTOR,
TEXAS DEPARTMENT OF CORRECTIONS,
Petitioner

V.

CARL EDWIN WIGGINS,
Respondent

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

JOINT APPENDIX

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Petition for Certiorari filed January 7, 1983
Certiorari Granted February 22, 1983

W. J. ESTELLE, JR., TEXAS DEPT. OF CORRECTIONS V. CARL EDWIN WIGGINS, NO. 82-1135

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RELEVANT DOCKET ENTRIES

January 31, 1973: Respondent's convicted of aggravated robbery.

March 21, 1973: Respondent's motion for new trial granted.

April 17, 1973: Attorney Benjamen Samples appointed.

May 31, 1973: Attorney Norvell Graham appointed.

June 4, 1973: Respondent's re-trial began.

June 8, 1973: Respondent again convicted of aggravated robbery.

March 26, 1975: Affirmance of conviction by Texas Court of Criminal Appeals.

February 29, 1979: Application for federal habeas corpus filed.

August 26, 1980: District Court's denial of habeas corpus relief.

November 6, 1980: Certificate of Probable Cause to appeal granted.

April 30, 1981: Attorney Craig Smyser appointed to represent Respondent on appeal to Fifth Circuit.

May 12, 1981: Respondent filed application in United States Supreme Court for removal of appointed counsel.

October 5, 1981: United States Supreme Court denies application.

July 26, 1983: Judgment of Fifth Circuit reversing lower court's denial of habeas corpus relief.

November 8, 1982: Denial of rehearing and rehearing *en banc* in Fifth Circuit.

THE COURT: The State of Texas versus Carl Edwin Wiggins.

MR. RODRIGUEZ [prosecutor]: The State is ready, Your Honor.

MR. SAMPLES: Your Honor—

THE COURT: Mr. Wiggins. Come around here.
(Thereupon, doing so.

MR. SAMPLES: Your Honor, Mr. Wiggins, my client has indicated and requested that we announce ready on this case. It is my opinion—in fact I want the record to reflect that we have a motion for a transcript of the previous trial, and the Court granted this motion, and since the matter is being prepared, is not ready at this time, I do not feel that we can safely go to trial without it.

THE COURT: And you are moving that it be reset until—

DEFENDANT: No, sir.

MR. SAMPLES: I am, individually.

THE COURT: I understand. I understand, but you are requesting as attorney that this case be reset until after the transcript is made available?

MR. SAMPLES: Yes, Your Honor.

THE COURT: All right. Mr. Wiggins, do you understand?

DEFENDANT: Yes, Your Honor. I do understand and I disagree.

THE COURT: You disagree?

DEFENDANT: Yes, sir.

THE COURT: You understand that you will be waiving or giving up your right to the transcript even though the Court previously ordered and granted a motion for the trantscript?

DEFENDANT: No, Your Honor, I did not realize that I would be.

THE COURT: You can't have both. The transcript is not ready and the transcript cannot be available if we go to trial right now.

DEFENDANT: Well, Your Honor, could portions of that transcript be subpoenaed during the proceeding if it was necessary?

THE COURT: What portions of it that have already been transcribed can be made available, but other portions of it cannot be made available until after they are transcribed.

DEFENDANT: Well, Your Honor, I am ready for trial subject to hearings and motions that I filed. I am trying to get a hearing on some motions. Subject to that, subject to call of my witnesses; I am ready for trial and I am defending myself pro se, with the Court's permission, subject to the hearing of those motions, and I have been in jail for quite a long time.

(R 7-8)

. . .

THE COURT: ... I want to acquaint you with this. As I don't want to delude you into thinking that an alternative to the transcript is to have the reporter

here to read her notes. As I understand, you want her in the main trial of your case. The reporter here took the punishment phase in your case, if you are interested in that matter. That is available. The main trial on the case, the guilt or innocence aspect of it, was reported by Ms. Sulsar. She is no longer a county employee. She left to go get married, to go on her honeymoon.

DEFENDANT: Well, Your Honor, I will risk that and go to trial, if it please the Court.

THE COURT: It's not what pleases the Court. I want you to understand what your rights are. This Court wants to see that you have every right available to you, but we can't do the impossible.

DEFENDANT: I understand, Your Honor.

THE COURT: The decision has to be yours, but I want you to make an intelligent decision, in that this is not available to you.

MR. WIGGINS: If all the witnesses are here, Your Honor, I don't think it will be necessary for the transcript or any reading of the transcript and I filed the subpoena application I think in sufficient time and I would like to check on those.

And if they are here and available, subject to the Court's hearing the defendant's motions, well, I am ready for trial, Your Honor.

THE COURT: We will hear that as soon as we hear this other—

MR. SAMPLES: With respect to the transcript that we refer to, I think the Court may be under the impression that this is exclusively for the trial on the merits. Based on the motions that Mr. Wiggins has filed, I also feel like the transcript is necessary. I don't

feel that we can go forward with the motions, the various motions that ought to be heard by the Court without the transcript.

DEFENDANT: Your Honor, I am defending myself and I feel that relative to the motions that I filed, that they can be heard without the transcript.

MR. SAMPLES: Your Honor, there has—an issue has been raised as to the representation of Mr. Wiggins. The Court did appoint myself, Benjamin Samples to represent Mr. Wiggins, along with Mr. Norvell Graham who is here, and although I understand there was a previous trial and Mr. Wiggins did at that time represent himself, I don't know whether the determination has been made by this Court as to who is going to represent whom.

THE COURT: Well, Mr. Wiggins has a right to represent himself, and under the law the Court has made available to him for counsultation and/or use, that he would wish to make within the framework of your professional abilities, both you and Mr. Graham who will be available, that he may consult with whoever he wishes to consult.

Now, As I understant the law, he has a right to represent himself as long as he does that within the framework of the law and the rules of the proper conduct of the trial.

There may be times when his knowledge and ability is not such that he is doing it properly and it may be that the Court at that time will suggest to him that he consult with counsel, but counsel will be here at the counsel table with him and confer with him as he wishes.

(R. 10-13)

. . .

Let the record show that the defendant, Mr. Carl Edwin Wiggins, has by his own design, elected to be attorney for himself pro se, but that the Court has appointed previously Mr. Ben Samples and also Mr. R. Norvell Graham, both practicing members of the San Antonio Bar, to assist Mr. Wiggins, to advise Mr. Wiggins if he wishes to be advised, or to consult with them when the Court directs he consult with them, that they are here present in Court and available sitting right behind him.

You may proceed.

(R 13-14)

. . .

MR. GRAHAM: Well, if I may, Your Honor, the car was obviously stopped because of the license number, at the time that Mr. Cunningham testified that they were looking at the coat—they had all these conversation back and forth with the Corpus Christi Police Department. I think if there is anything in writing that reflects any of this, we are entitled to that that was done by the San Antonio—I mean by the Corpus Christi Police Department.

DEFENDANT: Your Honor, the only report—I would like to—I would like to—the defendant, myself, I would like to say that under the motion for discovery the only reports I would like to have from the Prosecutor or from the Corpus Christi officers is the request made—what request was made by the San Antonio officers to the Corpus Christi officers on January 17, where and when the said officers in Corpus Christi made confirmation of the defendant's car in Corpus Christi. That's the only information I ask for in discovery in regards to statements by these officers.

(R 37-38)

. . .

MR. GRAHAM: Again, Your Honor, we certainly believe that the arrest of the defendant's son, because of the, because of the—

DEFENDANT: -Your Honor, the defendant's son was not arrested.

THE COURT: Wait a minute.

DEFENDANT: Your Honor, I would like to defend myself. I would appreciate it, sir if you would ask this man to let me defend myself.

MR. GRAHAM: Certainly. Help yourself.

DEFENDANT: I would be grateful. I have not solicited his assistance, Your Honor, and I don't want it.

THE COURT: You are going to get help and/or assistance from him because you are obviously not a lawyer.

DEFENDANT: Yes sir. I am not a lawyer.

THE COURT: And this trial, if we do go into it, is going to be conducted according to the rules of law.

DEFENDANT: Yes sir.

THE COURT: And there might be an occasion when this Court is going to require that you consult with them as to what the proper procedure may be.

DEFENDANT: Yes sir.

THE COURT: You will have every right made available to you under the law, as this Court is able to determine.

DEFENDANT: I appreciate that, Your Honor, but for assistant counsel to initiate something that the defendant does not want, I would like to consult with the attorneys for advice. I will appreciate that, but for counsels to initiate something that is contrary to the defendant's defense, well, then, I couldn't appreciate that. He is alluding that my son was arrested. He was arrested only as to the effect that he was given a ticket and accompanied the police officers to the city hall and was then asked questions relative to where he had been and the defendant's car.

THE COURT: I understand this, Mr. Wiggins. This Court is not easily prejudiced. The attorney is not here testifying. I don't take these things for fact. And I am not ruling on guilt or innocence in this case, anyway. So you don't have to worry about whether or not he says he was arrested or not arrested.

(R 39-41)

. . .

MR. GRAHAM: May I approach the bench? There is a witness here. I would like to find out if he needs him on any of his motions.

DEFENDANT: Not on any of these motions, I don't believe. Let me see.

THE COURT: Defense witness?

MR. GRAHAM: Yes, Your Honor. It's a defense witness.

DEFENDANT: No, not on any of these motions.

MR. GRAHAM: Sgt. Taft Teller, on the motion for discovery.

THE COURT: He wants to see the photographs on something, as soon as that's done.

(R. 45)

. . .

DEFENDANT: The defendant would like to mark this as defendant's Exhibit F.

MR. GRAHAM: Your Honor, that belongs to the Court's file. Better to get a copy.

DEFENDANT: I would like to reserve that for later, if I may.

(R.50)

. . .

MR. GRAHAM: Your Honor, we have no objection to the officer refreshing his memory from his report.

THE COURT: I think we are going a little far afield of the motion.

MR. GRAHAM: I think on the basis of the discovery, I would like to see his report.

THE COURT: It's not covered by the discovery.

MR. GRAHAM: Police reports?

THE COURT: Not covered by the motion.

(R.51-52)

. . .

Q Well, the police station then?

A I took some pictures at the police station.

MR. GRAHAM: Your Honor, we would like for him to produce those photographs.

DEFENDANT: We would like to have them, yes, Your Honor.

THE COURT: Produce those Polaroid photographs?

MR. GRAHAM: Yes, Your Honor.

THE COURT: Were they shown to the witnesses?

WITNESS: No.

THE COURT: I don't see the relevancy.

MR. GRAHAM: I think the best evidence are the witnesses themselves when we get into the trial. I propose to show colored photographs to the witness and ask if they have ever seen them.

THE COURT: All right. You can produce them?

WITNESS: I don't know. I looked through the file. The file was open to 15 or 20 detectives. I don't know whether they are still there or not.

(R.54-55)

. . .

DEFENDANT: Your Honor, I have just learned today that one of my witnesses, Mr. Truman Beasley, 5002 Gollihar, Corpus Christi, to Bryan, Texas. He is the advertising director for the newspapaer in Bryan

and I would ask that a subpoena be directed to Bryan Newspaper in Bryan, Texas for Mr. Truman Beasley. Could this be done right away, Your Honor?

THE COURT: Lee Beasley?

DEFENDANT: No sir, Mr. Truman Beasley, formerly of 5002 Gollihar.

THE COURT: All right. Get me an application. Take it up with counsel assisting you right there.

(R.60-61)

. . .

THE COURT: The reason I am not starting this afternoon, Mr. Graham, who has just been appointed within a sufficient length of time, but Mr. Graham has been appointed as additional counsel here last Thursday and has a doctor's appointment at four o'clock. I don't think we would accomplish very much between now and four o'clock. So because of the shortness of notice to him, I don't want to impose on him anymore than necessary.

(R.63)

. . .

What says the State—ready?

MR. RODRIGUEZ: Yes sir; we are ready.

THE COURT: All right. What says the defense?

MR. GRAHAM: Your Honor, I would like to advise the Court at this time that my appointment was last Thursday. I don't feel like I can waive the ten days preparation. Howver, my client feels like he can waive the ten days and agreed to sign a waiver.

THE COURT: All right. Mr. Samples, when were you appointed? Was it more than ten days?

MR. SAMPLES: Yes sir. Approximately a month and a half.

THE COURT: You have been appointed and you have been available in this case a month and a half?

MR. SAMPLES: Yes sir.

THE COURT: All right. Mr. Wiggins, what is your pleasure. Mr. Graham here was appointed just two days ago as additional counsel. The law provides that when an attorney is appointed to represent someone, he shall have ten days time in which to prepare. You have had one attorney, though, that has been available to you and has had a month and a half to prepare, but you wish to proceed at this time?

DEFENDANT: Yes, Your Honor, I do. Before I announce ready, though, I would like to inquire about the makeup of these jurors right here. If I may look to—

THE COURT: First, I don't want to get off the subject.

DEFENDANT: We will waive the ten days on Mr. Graham.

THE COURT: You are waiving the ten days as far as Mr. Graham is concerned?

DEFENDANT: Yes, Your Honor.

THE COURT: The basis of that is that you expect to be an attorney for yourself pro se?

DEFENDANT: Yes, Your Honor. In fact, not only that, I would like to waive his assistance, if I may.

THE COURT: The Court is not going to relieve you of that. Now, you can use it or not use it. It's available to you in this case.

DEFENDANT: Yes sir, but I would ask the court to ask Mr. Graham not to take the initiative to interfere with the defendant here, if I may do that?

THE COURT: Well—

DEFENDANT: I mean, if I want Mr. Graham's help I will ask for it and appreciate it if he wouldn't volunteer without me asking for it.

THE COURT: Well, Mr. Graham is a competent attorney and he has much experience in this type of thing and I am sure what he is trying to do is what he thinks is best for you. I am not going to order him to do or not to do anything. If some problem or situation arises, I will act on it at that time. I am not going to order him not to.

DEFENDANT: Your Honor, do I understand that the Court is forcing the services of Mr. Graham on the defendant?

THE COURT: His availability, yes.

DEFENDANT: May I except to that, Your Honor?

THE COURT: Its in the record.

(R.64-67)

. . .

THE COURT: You have an exception to any ruling of the Court without taking it, Mr. Wiggins. That's the law.

DEFENDANT: Yes sir.

MR. GRAHAM: Your Honor, at this time I request that the defendant sign this waiver filed among the records in the case.

(Thereupon, defendant doing so.

(R.69)

. . .

THE COURT: Ladies and gentlemen, because this is a bifurcated trial, that is, two-phased, where the jury, if they return a verdict of guilty, would then—would have the second phase in which event the jury would fix the punishment to be received.

I would instruct you that the punishment prescribed by the legislature for the offense of robbery is not less than five years in the penitentiary nor more than life in the penitentiary, or any number of years in between.

Now, the defendant in this case is charged by indictment as a repeater—

MR. GRAHAM: Your Honor, we will object to that.

MR. RODRIGUEZ: May I approach the bench?

DEFENDANT: May I approach the bench?

THE COURT: You may approach the bench.

(R.81)

. . .

DEFENDANT: I object on the grounds that the Prosecutor is trying to provoke the defendant to ask for a mistrial.

MR. GRAHAM: Comes now the defendant, Carl Edwin Wiggins, and respectfully moves that this entire panel be quashed on the grounds that the Court's action advising them that he was a repeater is highly prejudicial and is tantamount to his grounds to have the panel quashed.

DEFENDANT: Defendant does object and except to the same.

(Thereupon, defendant confers
(with appointed counsel.

THE COURT: All Right. Ladies and gentlement of the jury, being a civil judge, I just went a step too far. I am going to ask you to return to the central jury room. We are going to have to get another panel. Please do not—I am instructing you: do not converse with any other jurors in connection with this matter. We will have to bring up another panel. I was not supposed to have told you that he was a repeater. Do not speak to any other jurors about it.

(R.82)

. . .

This Court is a Constitutional Court and has a limited trial jurisdiction. However, the enabling statute which created this Court admonished that it would give priority to criminal cases. So the case we have for trial here this morning is the State of Texas vs. Carl Edwin Wiggins. It is an alleged robbery by assault case. The indictment alleges robbery by assault.

Mr. Wiggins, would you stand and face the panel?
(Thereupon, doing so.

THE COURT: All right. You may be seated.

Now, there is one reasonably rare aspect to this case. Mr. Wiggins, which has a right to do, has elected to be his own lawyer in this case, to try his own case. The Court, however, has appointed two practicing members of the Bar of San Antonio to represent and assist Mr. Wiggins where he desires to use their help or where the Court directs that he confer with the attorneys and they are Mr. R. Norvell Graham and Mr. Benjamin Samples.

(R.84)

. . .

DEFENDANT: The defendant pleads not guilty to the accusation and, Your Honor, I have an opening statement. Is it appropriate to make it now or later? I would like to make an opening statement before any witnesses.

THE COURT: I don't think there is any provision for any opening statement by anybody.

DEFENDANT: I am sorry, Your Honor. That was the—

THE COURT: That's in a civil case, an opening statement.

MR. GRAHAM: Just a moment.

DEFENDANT: Well, Your Honor—
(Thereupon, conference is held
(among the defendant and
(defense counsel.

(R.191)

. . .

A I was told by Mr. Davila, who is the assistant manager, that he followed—

MR. GRAHAM: Objection—to anything he was told, Your Honor. It would be hearsay, outside the presence of the defendant.

THE COURT: Be sustained.

Q In connection with any other data, any other information given you regarding the robber, were you give any sort of description of a car?

A Yes sir, I was.

MR. GRAHAM: Leading his witness.

THE COURT: Don't lead, Counsel.

MR. RODRIGUEZ Yes sir.

(R.196)

. . .

Q In his 60's. Okay. And that's all you have as far as the description?

A No, no sir. White male, 60's, brown checkered sports coat, brown slacks, brown canvas-type hat—

MR. GRAHAM: That's enough, Your Honor.

THE COURT: Pardon?

DEFENDANT: Your Honor, I want to ask the Court if I could—if Mr.—Detective Anderson could be subpoenaed. He may have some notes relative to the description given at the scene.

THE COURT: Your attorney can advise you to have any witnesses available.

DEFENDANT: Thank you, Your Honor.

(R.204-05)

. . .

MR. GRAHAM: Your Honor, at this point I would like to take this witness on voir dire and go into the background of his identification.

THE COURT: All right.

MR. GRAHAM: I am going to do this.

VOIR DIRE EXAMINATION

Questions by Mr. Graham:

Q Mr. Baumann, I believe—by the way, this that I am holding in my hand is a statement you gave to Detective Taft Teller—

THE COURT: Just a minute, Counsel. I want to get something straight. Are you examining with the permission of Mr. Wiggins. Mr. Wiggins announced earlier in the case he didn't want you participating in or asking any questions or anything else. I just want the record to reflect that it is with his permission.

MR. GRAHAM: I think on this particular point, on this particular issue—

DEFENDANT: I won't object to it, Your Honor, at this hearing.

THE COURT: All right.

MR. GRAHAM: This is, of course, a legal proposition.

THE COURT: Previously he had informed me to order you not to do or say anything.

MR. GRAHAM: Yes sir.

THE COURT: Which I declined to do.

(SF 209-211)

. . .

DEFENDANT: I want to ask him this question here on this statement that's dated February 15.
May I show it to you?

MR. GRAHAM: God damn it. Wait a minute. I am trying to get ...

(Thereupon, Mr. Graham
(conferring with defendant.

(R.245)

. . .

DEFENDANT: The second statement he showed you—

MR. GRAHAM: Just a minute. I am going to examine.

DEFENDANT: I am sorry, Your Honor.

(R.248)

. . .

DEFENDANT: Your Honor, I have some questions relative to the in-Court—

MR. GRAHAM: We will take him on cross-examination.

DEFENDANT: I would like to ask him. They are very relevant.

MR.GRAHAM: You can get him on cross-examination.
Sit down.

THE COURT: You say you wish to ask further questions on voir dire at this time?

DEFENDANT: Yes sir, Your Honor.

THE COURT: Go ahead.

(R.112-24)

. . .

MR. GRAHAM: Ask him one question. Don't sit down and argue.

DEFENDANT: I am sorry.

(R.232)

. . .

MR. GRAHAM: Let me make a motion, Your Honor. We move to suppress the in-Court identification on the grounds it is tainted by the photographs that were shown to the witness.

THE COURT: I dont't think the State has had an opportunity yet to develop what the evidence is. We have just had him on voir dire. That's all.

MR. GRAHAM: Yes sir.

(R.235-36)

. . .

DEFENDANT: Your Honor, I would like to ask a question, if I may.

THE COURT: I am not going to permit any more questions.

MR. GRAHAM: We move for the Court to suppress, then.

THE COURT: I am going to reserve my decision on that.

Let's bring the jury back.

(R.242-43)

. . .

DEFENDANT: I would like to subpoena him, Your Honor.

THE COURT: All right. Take it up with your attorneys. That's the reason you have assistance of counsel.

(R.248)

. . .

THE COURT: Mr. Wiggins, one of your court-appointed counsel, Mr. Samples, is in attendance on another court. Do you wish to wait until he is available or do you wish to proceed with the assistance of Mr. Graham here?

DEFENDANT: I believe, Your Honor, I would like to wait for Mr. Samples, if I may, because I do wish to consult with him.

(R.255)

. . .

Q What did you think he was going to do if you had refused him?

MR. GRAHAM: Okay, Your Honor, that certainly calls for a conclusion.

THE COURT: Sustained.

MR. GRAHAM: I would like to ask the Court to instruct the jury to disregard.

THE COURT: The jury will be instructed to disregard the last question.

MR. GRAHAM: Not withstanding the Court's instruction, I feel that the question is of such prejudicial nature as to require a mistrial and respectfully move for a mistrial.

THE COURT: That will be denied.

(R.261-62)

. . .

DEFENDANT: Your Honor, the defense would like to subpoena Mr. Doug Simmons.

THE COURT: Don't tell me about it. Tell your Court-appointed lawyer about it.

DEFENDANT: Okay.

(R.272)

. . .

Q I am not asking you that, Mr. Baumann, I am asking you this: did you appear before a Grand Jury, before those twelve people, a Grand Jury, and you identify some photographs so this Grand Jury—

MR. GRAHAM: Just a moment.

Q —when the defendant wasn't present?

MR. GRAHAM: I would like for the Court to strike his response to the question about the Grand Jury from the record on the grounds it is unresponsive.

THE COURT: Counsel, I think it's repetitious anyway. The witness said that he had no recollection of appearing before the Bexar County Grand Jury.

MR. GRAHAM: Well, Your Honor, perhaps I can make it clear outside the presence of the jury.

THE COURT: All right. Ladies and gentlemen, under the instructions previously given you, will you retire to the hall. Don't go too far. I will call you back in.

(R.286-87)

. . .

MR. GRAHAM: Comes now the defendant, in the absence of the jury, and requests that the Court instruct the witness in responding to any reference to the photographs not to allude to, mention or suggest that the pictures contained matters that would show that they were pictures of convicts from the Texas Department of Corrections.

MR. RODRIGUEZ: May I address the Court on that, if he is through? I don't know whether he is through.

THE COURT: Go ahead.

MR. RODRIGUEZ: My argument to the whole proposition right now is the defendant cannot be allowed to ask questions then, if they don't like the response, either he and his attorneys object to the response that has been elicited. Twice he has gone into this matter, he can't ask a question then if he doesn't like the answer, then his attorney gets up and objects. I object to both of them conducting this trial. It's either one man or the other. According to the Court of Criminal Procedure only one man who can object, lead, or cross-examine on whatever the matter is.

THE COURT: Counsel, I understand, but this case has peculiarities and is unique.

MR. RODRIGUEZ: I appreciate that.

THE COURT: It is not completely unique. I have been through some of this before, but I have an individual here who first doesn't want his counsel and then when counsel is not here he holds up the Court for fifteen or twenty minutes because one or two of his lawyers were not present in Court at the time, obviously trying to irritate the Court and everyone else concerned; but the Court is going along with him and give him every right that he is entitled to. I will instruct the witness to respond to the question as best you are able to understand it. I will admit that some of these questions I can't even follow.

(R.288-89)

. . .

DEFENDANT: Your Honor, may I approach the bench. I would like to apologize if the defendant has indicated that he desired to irritate the Court in any way.

THE COURT: Well, I am just going to grant you every right that you are entitled to and probably some even that you are not entitled to.

DEFENDANT: Thank you, Your Honor.

THE COURT: The record will speak for what you are getting.
(R.289-90)

. . .

THE COURT: I think you better confer with your counsel about this here and that there and things I have in my hand, means nothing in the record and I think if

you will consult with your attorneys they will tell you the proper way of approaching that.

DEFENDANT: Thank you, Your Honor.

MR. GRAHAM: I would like to have the statement of Melvin Baumann given to Detective Taft Teller on the 15th day of February, 1972, at 1300 hours, marked for identification.

THE COURT: It's not already marked?

MR. GRAHAM: No sir.

(Thereupon, Defendant's Exhibit H marked for identification.

MR. GRAHAM: And for the purposes of the record what has been previously marked as State's Exhibit No. 2 is the statement by Melvin Baumann given to Detective Taft Teller on March 6, 1972 and for the further purposes of the record what has been marked as Defendant's Exhibit F is the statement purporting to be given to Maury Maverick on October 7, 1972 by Melvin Baumann. I will hand these exhibits to the defendant and ask him if those are his statements and that is his signature on all these statements?

MR. RODRIGUEZ: Let's not get confused. Mr. Graham is assisting the defendant. A witness is on the stand; not the defendant.

MR. GRAHAM: All right. The witness. Pardon me, Mr. Rodriguez.

(R.192-94)

. . .

MR. GRAHAM: Your Honor, the inference there made by the District Attorney, I ask that the Court instruct the jury to disregard that.

MR. RODRIGUEZ: He opened it up.

THE COURT: I will overrule the objection.

MR. GRAHAM: Note my exception.

(R.301)

. . .

MR. GRAHAM: I object to that. That's highly improper and immaterial at this point.

THE COURT: Overrule the objection.

MR. GRAHAM: Note my exception.

(R.302)

. . .

Q Do you remember this man because of his pictures or because he is the one who robbed you?
A He is the one that robbed me.

MR. GRAHAM: Repetitious. Object.

Q Because he is the one that robbed you?
A Yes, sir.

MR. GRAHAM: Your Honor—

THE COURT: Go ahead.

MR. GRAHAM: All right.

Q Now, insofar as this line of questions that he has been going on about the age and all this, now, this tan that you spoke of, was leathery type?

A Leathery.

MR. GRAHAM: Object to the suntan. Objection. This is suggestive, leading.

THE COURT: All right. Don't lead, counsel. Sustain that objection.

MR. GRAHAM: I will ask that the Court instruct the jury to disregard the question.

THE COURT: All right. I will instruct the jury to disregard the last question.

(R.304)

. . .

Q Now, about this business of being afraid, you were afraid of what? We left off on that.

A I was afraid anything could happen. He could have shot me if I didn't cooperate with him.

DEFENDANT: This is unbelievable.

MR. RODRIGUEZ: I believe those are all the questions I have, Mr. Baumann. Thank you.

(Thereupon, Mr. Graham
(talking to defendant.

THE COURT: Do you have any additional questions of this witness?

MR. GRAHAM: Your Honor, there is one question that I feel as his attorney should be asked.

THE COURT: Now, counsel, we have ground rules here. The question is whether or not the defendant want to ask the question.

DEFENDANT: Well, Your Honor, I do have—trying to think of a question or two, but ... I would like to ask him again if ... if it's ...

THE COURT: Don't ask him anything that you have asked him before. In other words, don't try to to trod on the same ground over and over. The jury heard it. It's fresh in their minds.

MR. GRAHAM: Your Honor—
DEFENDANT: I believe I will pass the witness.

MR. RODRIGUEZ: May he be excused?

MR. GRAHAM: Just a moment. Can we confer? Counsel feels the defendant should require that the question be asked.

THE COURT: Ladies and gentlemen, I have been abusive of you this morning because of various matters that we have had to take up in your absence. I haven't really given you a recess except haphazard ones. On instructions previously given you, I am going to give you a fifteen-minute recess at this time. Remember my instructions. You may go anyplace you like, no farther than seven and a half minutes away.

(Thereupon, jury withdrawn
(from the courtroom.

MR. GRAHAM: Your Honor, I have conferred with my co-counsel and we feel that this is a question that should be asked or required to be asked.

THE COURT: Gentlemen, let me say this to all concerned. I can appreciate how counsel feels about this but this defendant has been granted by this Court the right to represent himself, which he has a right in law. I have even overrriden his desire by requiring that appointed counsel be available to assist. Now, I don't

think that this Court can extend itself to supersede his judgment. If you have had an opportunity to make him acquainted with what you feel he should ask, if it is not his desire to have that question asked, then I don't think that under the circumstances and the ground rules under which we are operating, that it would be fair to this defendant to have that question asked in spite of his objection.

MR. GRAHAM: All right. Then may I say this, may I propound the question to the witness outside the presence of the jury purely for the purpose of preserving the record for him.

THE COURT: I don't see how we are going to preserve the record on appeal. This is not something that we take on voir dire to see what his answer might be.

MR. RODRIGUEZ: Then if they don't like it—

THE COURT: We are not going to have exploratory things on this. You may have a recess, and you can consult with the defendant and, if at the end of the recess you want to ask the question, fine. If he doesn't want to ask the question, fine. I am not going to—at least when it is a judgment call—I am not going to insist that our judgment, your judgment or Mr. Sample's judgment would control. His judgment would control, but I want him acquainted with what his legal rights are. It's peculiar to work under these conditions, but this is what we are going to have to do.

DEFENDANT: May I say it is peculiar to me, Your Honor and I would really appreciate it if I could—if I could conduct my defense without the assistance and interruptions of counsel, with all respect, Mr. Graham.

THE COURT: All right.

MR. GRAHAM: I will sit third chair from now on. I will move back one notch.

THE COURT: I am not going to order you Mr. Graham, because I know you are competent counsel, but let me suggest to you that unless he consults with you—you do your thing anyway, but don't object or don't ask questions unless and until the Court request that you consult with him because he doesn't know the proper way to do something.

DEFENDANT: Thank you, Your Honor.

(R.305-09)

. . .

A Yes, sir.

DEFENDANT: Thank you.

MR. RODRIGUEZ: Nothing further, Your Honor.

MR. GRAHAM: Your Honor, may I confer just a moment?

THE COURT: All right. You may confer.
(Thereupon, Mr. Graham
(confers with defendant.

DEFENDANT: That's all, Your Honor.

(R.326)

. . .

THE COURT: All right. For the record, Mr. Wiggins, is it all right to proceed even though Mr. Samples is not here at the present moment?

DEFENDANT: Yes, Your Honor.

THE COURT: Let the record show, however, that Mr. Norvell Graham is here.

(Thereupon, jury brought into (the courtroom.

(R.328)

. . .

MR. RODRIGUEZ: At this time, Your Honor, we do offer State's Exhibit No. 3 into evidence.

MR. GRAHAM: Counsel for the defendant would object to its introduction on the grounds that same purports to be a business record; however, the same was not kept by an employee or agent of the Texas Highway Department but rather was kept—this record was compiled by the clerk, County Tax Assessor, Nueces County, and therefore it's not admissible under the business records act.

THE COURT: Let me see it.

(Shown to Court.

(R.339)

. . .

MR. RODRIGUEZ: At this time we re-urge or offer into evidence State's Exhibit No. 3.

MR. GRAHAM: May I take hime on voir dire?

THE COURT: You may.

DEFENDANT: Your Honor, may I approach the bench?

THE COURT: Yes.

(Thereon, conference held out
(side the hearing of the court
(reporter among the defendant
(and all counsel and the Court.

THE COURT: The defendant has withdrawn his objection to State's Exhibit No. 3 and it will be admitted into evidence.

(R.340)

. . .

MR. RODRIGUEZ: At this time the State is going to rest its case.

MR. GRAHAM: May I be excused for just a minute?

MR. RODRIGUEZ: Just a second, Mr. Graham. At this time the State is going to rest its case.

MR. GRAHAM: Judge, we'd like to recall a witness for recross-examination.

THE COURT: All right.
Mr. Wiggins and Mr. Graham.

(Thereupon, conference held
(outside the hearing of the
(court reporter among defen-
(dant, the Court and all
(counsel.

THE COURT: Ladies and gentlemen of the jury, I will run you out of here for about five minutes. Remember my instructions. You may retire at this time.

(Jury withdraw from court-
(room.

THE COURT: Again, for the record, this is a judgment call. I will let you fully advise the defendant of the desirability, if you feel there is a desirability to take a different tack as far as this witness or anything else is concerned, but the Court still feels that once he is properly advised as the advisability of doing something, and the legality involved, then it's a judgment call on his part. So I will give you full opportunity, you and Mr. Samples, full opportunity to confer with Mr. Wiggins.

(Thereupon, counsel confer
(with defendant.

MR. GRAHAM: Comes now the defendant Carl Wiggins, and after the close of the State's case, moves that the Court grant him an instructed verdict of not guilty on the grounds that the State has not proved its case or, in the alternative, has not proved its case by the preponderance of the evidence; that the evidence—

THE COURT: You mean beyond a reasonable doubt?

MR. GRAHAM: —beyond a reasonable doublt. I'm sorry. Excuse me, Judge, beyond a reasonable doubt. And in the alternative, that the evidence is insufficient to convict, and respectfully moves the Court to grant him an instructed verdict.

DEFENDANT: Your Honor, may I make a motion?

THE COURT: All right.

DEFENDANT: To that extent, after the jury returns and—

THE COURT: After the jury returns? Your motion will be made in their absence.

DEFENDANT: I do have a motion to make.

THE COURT: Make your motion.

(R.341-42)

. . .

THE COURT: All right. The first motion for instructed verdict will be denied. The second motion for acquittal made by the defendant pro se is denied.

MR. GRAHAM: Your Honor, at this point I would like to dictate into the record some of the recent things.

THE COURT: All right. Go ahead.

MR. GRAHAM: Comes now attorneys for defendant Carl Wiggins, R. Norvell Graham, Jr., and Benjamine Samples, and respectfully advise the Court that during the interrogation of the witness Dennis and the interrogation of the witness from the Highway Department—Mr. Pool—we advised the defendant that he had a right to read and examine a copy of the offense report made by Officer Dennis, which contents may or not have exculpatory or helpful matter in it for the purpose of his defense; and further advised him that the witness Pool had brought other records from the Highway Department which Pool refused to allow attorney for the defendant to inspect; that he was advised by his attorneys, both of them, that he had a right to inspect those and the Court would so order the witness to provide those copies for his inspection, but that he failed to heed the advice of his attorneys and refused to allow his at torneys and at other times when you request it or at additional times when the Court orders it or suggests that there be a conference between you all.

DEFENDANT: Well, Your Honor, at times when the defendant is listening to the testimony and or ques-

tioning, cross-examining or examining a witness, now, will you ask counsels to wait until the testimony is over or hold up the proceedings for a moment, because the defendant can't listen to their voice and at the same time listen to the testimony.

THE COURT: All right. You can hold up your hand and I will stop the proceedings.

DEFENDANT: Thank you, Your Honor.

THE COURT: All right.

(R.344-46)

. . .

DEFENDANT: I object, Your Honor.

THE COURT: What's your objection?

DEFENDANT: Hearsay.

THE COURT: Be sustained.

MR. RODRIGUEZ: It's a good objection.

(R.352)

. . .

DEFENDANT: Object to that, Your Honor. That's hearsay.

THE COURT: Sustained. You are instructed to disregard the last answer.

(R.352)

. . .

DEFENDANT: The defense rests, Your Honor.

MR. GRAHAM: Just one moment, Your Honor.

DEFENDANT: The defense rests, Your Honor.

MR. GRAHAM: I would like ... well ...

THE COURT: The defense rests?

MR. SAMPLE: May we confer?

THE COURT: You may confer.

(Thereupon, Mr. Sample and
(the defendant confer.

THE COURT: Ladies and Gentlemen of the jury, if you will just go into the hall for five minutes. Remember my instructions.

(Thereupon, jury withdrawn
(from the courtroom.

MR. GRAHAM: May I have just a moment with Mr. Wiggins?

(Thereupon, Mr. Graham and
(Mr. Sample confer with
(Mr. Wiggins.

MR. GRAHAM: Comes now R. Norvell Graham, Jr., and Benjamin Sample, appointed attorneys for the defendant Carl Wiggins, and would show unto the Court that they have advised Mr. Wiggins that the last witness, Lee Beasley, would give testimony that would raise the issue of alibi in the Court's charge. He would further testify as to the discrepancies concerning the color of the car that was used in the alleged robbery, that he would further testify that he had a conversation with the defendant in Corpus Christi, Texas, at approximately six o'clock on January the 18th or 19th, which date he is not absolutely sure, that in my opinion this

witness' testimony should be elicited to raise this defense issue of alibi and in the absence of that, that issue would leave him without a defense.

THE COURT: All right. The defendant has elected, though, to rest and not ask those questions?

MR. GRAHAM: Yes, Your Honor.

THE COURT: All right. Let the record reflect that.
The defense rests.

Now, as far as the witness that's here from Ancira-Winton, you don't want to use him?

DEFENDANT: No, Your Honor.

THE COURT: Sorry to bother you.

MR. GRAHAM: Just a moment. In connection with the witness from Ancira-Winton, the defense would show with certainty the colors of a 1970 Chevrolet, white over beige and would show the difference in color of a white over beige or beige over white as opposed to a blue over white automobile, and the official color chart of General Motors would show the difference in color.

THE COURT: Again the defendant himself has elected, on judgment call, not to use those?

MR. GRAHAM: Yes, sir.

(Thereupon, witness excused
(leaves courtroom.

THE COURT: You may bring the jury.

(Thereupon, jury brought into
(the courtroom.

MR. RODRIGUEZ: The State calls in rebuttal Officer Russell Crawford.

MR. GRAHAM: May I approach the bench, Your Honor?

(Thereupon, all counsel,
(including the defendant, held
(a conference outside the
(hearing of the court reporter.

(R.413-16)

. . .

A The car—

MR. GRAHAM: Your Honor, he is leading the witness.

Q Just describe the car?

THE COURT: Don't lead the witness.

MR. RODRIGUEZ: Yes, sir.

A Like I said, a 1970 Chevrolet, blue over white, four-door.

Q Just Describe the car?

A The car was extremely dirty with what appeared to be some kind of road film.

MR. GRAHAM: Objection, Your Honor. That calls for a conclusion on the part of the witness.

THE COURT: Be overruled.

MR. GRAHAM: Note our exception.

(R.420-21)

. . .

MR. GRAHAM: Objection, Your Honor. The district attorney is testifying.

THE COURT: Don't lead.

MR. GRAHAM: I ask the Court to instruct the jury to disregard the remarks of counsel as not being testimony in the case.

THE COURT: The Court will instruct the jury to disregard the last statement made by Mr. Rodriguez.

MR. GRAHAM: Notwithstanding the Court's instruction, I am sure it is so prejudicial as to require a mistrial.

DEFENDANT: No, Your Honor. I object to a mistrial. I object to counsel—

THE COURT: I denied the motion for mistrial. Overruled.

MR. GRAHAM: Jesus Christ.

Q This same car that you testified as to your having observed at 10:50 p.m., is that the same car, same license plate number as you saw at the residence of Carl Wiggins?

A Yes, sir, it is.

MR. RODRIGUEZ: Thank you, sir.
Pass the witness.

DEFENDANT: No questions.

(R.421-22)

. . .

THE COURT: Outside the presence of the jury.

MR. GRAHAM: I would like to be permitted by the Court to examine this witness.

THE COURT: That's entirely up to him. Again, that's a judgment call and ...

(Thereupon, conference held
(between Mr. Graham and the
(defendant.

MR. GRAHAM: For the purpose of the record, let the record reflect that counsel, appointed counsel for the defendant, R. Norvell Graham, Jr., and Benjamen Sample, have advised the defendant that the establishing of a tainted in-court identification is a legal proposition and should be handled by an attorney outside the presence of a jury and notwithstanding our advice and counsel with him, the defendant refuses to allow either counsel to interrogate the witness concerning the tainted identification, and for all those reasons counsel feels that his record is necessary.

(R.427-28)

. . .

Q Which one do you see?

MR. GRAHAM: At this point I would like to take the witness on voir dire to establish whether or not her recollection is from what she saw that day or from some other source.

THE COURT: Counsel, I will be glad to let you do that except ...

DEFENDANT: I didn't quite understand that.

THE COURT: He wants to take him on voir dire to establish the source or something else, and, as I understood from what you just put into the record just before we started this, was that the defendant was insisting that it was a judgment call and that he would conduct his own interrogation.

MR. GRAHAM: I am just trying to advise him that now is the time.

THE COURT: Okay.

(R.430)

. . .

DEFENDANT: Note my exception, Your Honor.

MR. GRAHAM: Before the jury is brought in, I would like to make a brief statement in the record.

THE COURT: All right.

MR. GRAHAM: Comes now R. Norvell Graham, Jr., and Benjamin Sample, court-appointed attorneys for the defendant, outside the presence and hearing of the jury, and state for the purpose of the record that had they been allowed to interrogate the witness they would have pointed out that the occurrence of the offense in question was January 17, 1972; that this witness was not talked to about this robbery until almost one month later, which was February 15, 1972; that a discrepancy in her statement as to it being a black pistol as opposed to it being a rusty pistol, as testified to by the other identifying witness, would possibly raise a reasonable doubt; that if the attorneys had been allowed to interrogate the witness they would have asked that the witness describe the robber that she saw on that date, as

to what clothing he had on, as to his height, his weight and other pertinent observations she may or may not have made as to whether or not there were other witnesses in the immediate vicinity of the robbery, as to whether or not she was able to ascertain—whether Mr. Davila actually was able to see the car that the defendant left in, as to whether or not he was able to see the color of the defendant's car that the defendant left in, and other pertinent questions which counsel for the defendant were prevented from asking.

THE COURT: Let the record further reflect this is additionally a judgment call on behalf of the defendant conducting his own defense.

DEFENDANT: Your Honor, I would like for the record to reflect that I object to the witness being called on rebuttal since the defendant offered no testimony relative to identification, and this witness to be gone on rebuttal would be improper, I think, and I would object to the State presenting this witness as a rebuttal witness.

THE COURT: All right. That will be overruled.

DEFENDANT: Note my exception, please.

THE COURT: All right. Bring in the jury.
(Thereupon, jury brought into
(the courtroom.

(R.449-450)

. . .

MR. GRAHAM: May I interject a statement?

THE COURT: You may.

MR. GRAHAM: Counsel R. Norvell Graham, Jr., and Benjamin Sample, court-appointed attorneys for Carl Edwin Wiggins, in connection with the portion of the Court's charge which advises the jury that they cannot consider his failure to take the stand as any evidence of guilt, state that they have counselled with the defendant, advised him of the desireability of including that in the charge and advised him of the possibility of a jury discussing the failure of the defendant to take the stand and further advised him that if that were included in the charge, their discussion of his failure to take the stand would be reversible error; that, notwithstanding this, the defendant elected to remove the same from the Court's charge.

Mr. Wiggins, I want you to tell the Court how you want this argument.

(Thereupon, conference is held
(outside the hearing of the
(court reporter.

(R.478)

. . .

THE COURT: Have you decided on your order?

MR. GRAHAM: Mr. Wiggins desire that I make the opening statement for the defense.

DEFENDANT: Yes.

(R.486)

. . .

MR. GRAHAM: I object to the reasons they don't know or should not know. That's highly improper.

THE COURT: Ladies and Gentlement of the jury, you consider and base your verdict entirely upon the evidence that you heard.

MR. GRAHAM: Request the Court instruct the jury not to consider this thing about things they don't know or should not know.

THE COURT: All right. You are not to consider other matters or speculate about other matters that are not before you.

MR. RODRIGUEZ: Exactly.

MR. GRAHAM: Your Honor, I would like an instruction to the jury to disregard the remark of counsel.

THE COURT: All right. I will instruct the jury to disregard the last statement of counsel.

MR. GRAHAM: Notwithstanding the Court's instruction to the jury to disregard the remark, the remark is so highly prejudicial as to require a mistrial.

DEFENDANT: Your Honor, the defendant doesn't desire a mistrial.

THE COURT: Motion for mistrial denied.

(R.498-99)

. . .

MR. GRAHAM: Objection, Your Honor. That's not evidence in the record.

THE COURT: Ladies and Gentlement—

MR. RODRIGUEZ: The heck it isn't.

THE COURT: Ladies and Gentlemen, you will decide or render your verdict based upon the evidence you heard. Statements of attorneys from either side is not evidence in the case.

(R.501)

. . .

(Thereupon, the Court came to
(order at 11:20 a.m., June 8th,
(1973, at which time the
(following proceedings are had
(outside the presence of the
(jury.

MR. GRAHAM: I need to dictate a statement into the record.

Comes now the court-appointed attorneys for the defendant, R. Norvell Graham, Jr., and Benjamen Sample, and state into the record that they advised the defendant, Mr. Carl Wiggins, that it was their desire at this time to make a motion for mistrial. Mr. Wiggins, after being advised of the options in law has declined to allow the attorneys to make a motion.

THE COURT: The Court will be in recess.

(R.512-13)

. . .

MR. RODRIGUEZ: Let me have these two marked.

MR. GRAHAM: Your Honor, before we go any farther and before displaying it to the jury, I would suggest that the State of Texas introduce it into evidence, as he is supposed to do so.

THE COURT: I think they are still identifying.

MR. GRAHAM: I object to it being displayed to the jury by the witness.

MR. RODRIGUEZ: Introduce what into evidence. I am sorry.

MR. GRAHAM: State's Exhibit No. 5.

MR. RODRIGUEZ: Okay. I will offer it into evidence.

THE COURT: Do you have any objection?

DEFENDANT: What is it? These fingerprints here? No, I have no objection. I have no objection.

(R.522-23)

. . .

MR. GRAHAM: Do you have any objection?

DEFENDANT: To what?

MR. GRAHAM: To the cards?

DEFENDANT: Yes. I have objections. To the court, no.

(R.524)

. . .

MR. GRAHAM: We object to this testimony, Your Honor, on the grounds that no proper predicate has been laid for these exhibits that the district attorney has submitted to this witness, and that the same is not the best evidence.

MR. RODRIGUEZ: I haven't offered it into evidence yet.

THE COURT: Just identify them.

MR. GRAHAM: Your Honor, I object to the testimony.

THE COURT: They will not be displayed to the jury.

MR. GRAHAM: I object to him testifying from them until time as the defendant has had an opportunity to know what they are.

THE COURT: He can testify concerning them, and lay a predicate.

Q Yes, sir. State's Exhibit No. 5 are the known prints of the defendant, is that right?

A The prints I took yesterday, yes, sir.

Q Now, State's Exhibits 6 and 7 ...

MR. RODRIGUEZ: Go ahead, go ahead.

MR. GRAHAM: I would like to object on the grounds that the defendant doesn't know what he is looking at, and for him to state from the witness stand what it is is not proper until such time as the defendant has had—

THE COURT: The witness is instructed not to state what it is.

MR. RODRIGUEZ: I will tender them to him right now or when I offer them into evidence, whatever his pleasure is.

THE COURT: Do you want to see them right now?

MR. GRAHAM: I am not going to presume to tell the district attorney how to try his case.

THE COURT: He is asking if you want to see them right now?

MR. GRAHAM: If I want to see them?

THE COURT: Yes, examine them, right.

MR. GRAHAM: Is the district attorney proposing to offer into evidence what the witness is looking at?

MR. RODRIGUEZ: I am going to offer it into evidence whenever I have laid the proper predicate and not before.

MR. GRAHAM: Well, Your Honor—

MR. RODRIGUEZ: I will tender them to him at that time or right now, whatever his pleasure is.

THE COURT: All right. Continue with your predicate.

Q All right. Now, Have you had occasion to compare the known prints of the defendant which are on State's Exhibit No. 5 with the unknown prints contained in the latter portions of State's Exhibits 6 and 7?

A Yes, sir.

MR. GRAHAM: I will object then, Your Honor, to this continued reference to what's contained in these exhibits when the defendant hasn't had an opportunity to examine them, the State has not offered them into evidence.

THE COURT: That will be overruled.

MR. GRAHAM: Note my exception.

(R.524-26)

. . .

MR. GRAHAM: Objection, Your Honor. Just a moment. Before we go any further into this, I would like an opportunity to question this witness on voir dire concerning what he is looking at there.

THE COURT: I am going to deny that.

(R.527)

. . .

MR. GRAHAM: Your Honor, I want to object—

MR. RODRIGUEZ: Object.

MR. GRAHAM: —now to this line of argument and object to these convictions on the grounds that the convictions for burglary and theft over fifty in Cause No. 46140 and 46298 arose out of the same confession and, therefore, he could not under the law then be convicted of the same offense and the same thing applies to—

DEFENDANT: Your Honor, I want to object to the fact that these are convictions of someone, but he is saying they are convictions of the defendant. He hasn't proved that these were convictions—

MR. GRAHAM: Will the Court rule on my objection first?

THE COURT:All right. Objection is overruled.

MR. GRAHAM: Note my exception.

(R.536-37)

. . .

MR. GRAHAM: Objection. That's out of the record.

THE COURT: All right. I will sustain the objection.

MR. GRAHAM: I would like for the Court—

THE COURT: The Court will instruct the jury to disregard the last statement.

MR. RODRIGUEZ: What's outside the record?

THE COURT: That he is walking the streets right now.

MR. GRAHAM: Notwithstanding the Court's instructions, the outburst by the district attorney is so prejudicial as to require a mistrial and respectfully moves for same.

THE COURT: The court has instructed the jury to disregard the last statement for any purpose whatsoever.

The motion for mistrial is denied.

MR. RODRIGUEZ: Okay. A little technicality like this—

MR. GRAHAM: The motion is overruled?

THE COURT: Denied; overruled.

(R.539-40)

. . .

MR. GRAHAM: I object to counsel referring to this as eighty-five years. Counsel well knows these things run concurrent.

MR. RODRIGUEZ: That's not in the record. Sit down.

MR. GRAHAM: In the absence of it being in the record, it is presumed that he got concurrent sentences, unless it appears in the record that the sentences were stacked, he got concurrent time.

I object to counsel arguing that he got eighty-five years. I think it's highly prejudicial. I respectfully—

THE COURT: Ladies and Gentlement of the jury, as stated previously, statements of the attorneys from either side are not evidence in the case. You are to make your decision based upon evidence.

MR. GRAHAM: Notwithstanding that, I would ask that the Court instruct counsel not to refer to the man's getting eighty-five years.

MR. RODRIGUEZ: What's it total up to?

MR. GRAHAM: May I state my objection, Counsel?

THE COURT: Go ahead, Counsel.

MR. GRAHAM: I object to counsel trying to mislead the jury saying that the man got eighty-five years when in truth and fact he got three sentences concurrent time, the maximum of which is—

DEFENDANT: In truth and in fact, I believe counsel to—I believe I will object to counsel on that.

MR. GRAHAM: I withdraw it.

THE COURT: All right.
(R.543-45)

. . .

(Thereupon, jury brought into
(the courtroom.

THE COURT: Mr. Wiggins, do I understand that you are waiving the presence of Mr. R. Norvell Graham?

DEFENDANT: Yes, sir, it is all right.

THE COURT: Well, he is available and can be here in six or seven minutes.

DEFENDANT: No, it won't be necessary.

THE COURT: All right. But you understand that we can make him available. I will suspend proceedings until he is here, if you wish that.
Mr. Sample?

DEFENDANT No, I don't desire him.
(R.546-47)

COURT: It is now in the record that he has given notice of appeal in open court.
MR. WIGGINS: Your Honor, I would like for it to reflect in the record that the defendant is defending himself and has not asked for or requested the assistance of counsel and the defendant would like to defend himself.
COURT: Let me understand this. You are at this point asking or moving this court that Mr. Graham and Mr. Sample be relieved of their appointment to represent you?
MR. WIGGINS: Your Honor, I asked to waive counsel and defend myself back in ...
COURT: I'm not asking that. I am asking from this point forward are you asking that they be relieved?
MR. WIGGINS: Yes, sir. Any court appointed counsel be relieved and permit me to defend myself on appeal

and that I might obtain the records and write my own brief and appeal my own case.
COURT: And you do not wish any counsel of any kind?
MR. WIGGINS: No, sir.
COURT: You do not wish a continuation of your present appointed counsel which are numbers 9 and 10?
MR. WIGGINS: The defendant has not asked for any of this as the defendant does wish to appeal this case by himself and to have a copy of the record and write his own brief and submit it.
COURT: I will do this, Mr. Wiggins. I will make available to you all of the opportunity in the world to write your own brief and have the transcript of the proceeding, both the statement of facts and the record on appeal. I'm going to reserve decision on your motion to relieve counsel at this point until I check the constitutional grounds but until I do that I instruct your court appointed counsel not to in any way interfere with you and I will advise you of the court's decision here in a day or so.
MR. WIGGINS: Thank you, your Honor.

(R.572i-572j)

. . .

REQUEST FOR COURT APPOINTED ASSISTANCE

No. 73-CR-648

4-16-73

Dear Sir:

I wish to *rescind my* earlier *request to waive* court appointed *assistance counsel* - and request *that this honorable* court appoint *counsel* to assist me.

I would appreciate very much if the Court would appoint the Honorable Stewart J. Alexander who was previously appointed to assist on appeal, before sentence was set aside.

And I apologize if I have caused an inconvenience to the Court.

Very truly yours,

Carl Edwin Wiggins

(R.854)

. . .

REQUEST THAT COURT APPOINT COUNSEL

No. 73-CR-648

5-26-73

To The Honorable Archie Brown,
144th Judicial District Court
Bexar County, Texas 78204

Dear Sir:
I have been indicted four (4) times of the same offense—and tried and convicted on the 2nd indictment, Cause No. 72-1141. The judgment and sentence was set aside and the Cause, No. 72-1141, was dismissed, and then was re-indicted twice more, Cause No. 73-CR648 and 73CR-653, accusing me of the same offense the 3rd and 4th times. And I am scheduled now to be tried again under the last two indictments.

According to Higgins v. State and Snow v. State, where prosecutions were dismissed—and according to VACCP Art. 28.13, I shouldn't be tried again.

Will you please appoint counsel to cite authorities on this issue, also, in favor of the State. I find only authorities indicating that further prosecution is barred. None indicating otherwise.

Respectfully yours,

CARL E. WIGGINS

(R.623)

. . .

Dear Judge Benavides:
On November 21, 1973, a gentleman from the courthouse came to the county jail and asked me if I wanted legal assistance. He told me you sent him. I said that I did need legal assistance and signed the affidavit indicating that I was unable to pay for assistance counsel.

Will you please advise me who the court appointed so that I may be able to contact him and discuss the aspects of my cause with him.

Also, may I inquire as to when a hearing may be held on the original application for writ of habeas corpus that I improperly filed with the Court of Criminal Appeals, and which was redirected to your court on Nov. 19, 1973.

I would appreciate your assistance.

Thank you,

CARL E. WIGGINS

(R.807)

AFFIDAVIT

My name is Carl Edwin Wiggins, and I am currently serving a life imprisonment sentence as a result of conviction in the 187th Judicial District Court of Bexar County, Texas, upon the third (3rd) of four indictments that were presented against me by three different Grand Juries for the same single alleged criminal offense. The four (4) indictments charging me with an alleged robbery of some three hundred dollars was said to have occurred on or about the 17th of January, 1972, a date that I was in Corpus Christi, Texas—about one hundred and eighty miles from the scene—where my home and business was, and was with several witnesses who were ready to testify that I was with them on the date in question and at the time in question.

The indictments that were presented against me were numbered: 72-777, dated April 19, 1972; 72-1141, dated June 7, 1972; 73-CR-648 and 73-CR653, dated March 28, 1973. The Grand Juries were given absolutely no evidence or witnesses on which to base these presentments.

During the trial of this cause, (73-CR-648), after having elected to conduct my own defense—out of necessity—I was forced to accept the "services" of two Court appointed Lawyers. These two Court appointed Lawyers, as were others before them, were part of the prosecuting scheme. I was actually required to defend myself from these lawyers more than from the charge in the indictment. The experience was truly incredible.

I am making this affidavit mainly to describe some of the conduct of these lawyers.

After I was arrested at my home in Corpus Christi, Texas on February 20, 1972, and taken to San Antonio and charged with the January 17th, 1972 robbery, my wife immediately inquired with relatives as to the best

lawyer to contact in San Antonio. Mr. Fred Seamann was recommended. In the meantime, the first few days I was in the Bexar County jail, a Mr. Thomas Rocha was recommended to me as a good lawyer and Bondsman. Mr. Rocha came to the jail and told me that for Five Hundred dollars ($500.00) he would get me out on bond and then talk about fees to defend me from the charge. The following visiting day I told my wife to see Mr. Rocha. She had brought all the money we had in the bank—which was about seven hundred dollars ($700.00). I advised her to hold on to the money unless it was a sure thing that I could be released on bond. She was pregnant at the time and we had kids in school. We could not afford to give up all our money unless I could be out to work and bring in an income. I had a Battery Shop in Corpus Christi in which I earned from two hundred and fifty to three hundred dollars per week. We had good credit at the Bank (Corpus Christi State National). When she met Mr. Rocha, he told her to give hime the money (Five Hundred dollars) and for her to wait in the parking lot while he went into the Courthouse and talked to the judge. This was contrary to what he had told me earlier when he said he wanted the judge to see my wife's pregnant condition. My Wife told Mr. Rocha that she would have to see me before she gave him the money. When she came back to the jail to see me that same day, after Mr. Rocha has arranged for us to have a "special" visit, I told her not to give him the money until after the bond was made—the minute after. And, based on the descriptions my Wife gave me about Mr. Rocha's conduct, I told her that I thought he was less than honest, and to be careful about giving up our money. Later she told me that Mr. Rocha wanted her to give him the money and for her to come back in a few days. She didn't give it to him. She went to see Mr. Fred Semann. Mr. Semann told her that he had to have Five Thousand dollars in advance for legal services and more for making the bond which was set at thirty thousand dollars. The next time she saw me I told her to

forget about any Lawyer; that a line-up should clear me. This was what the Parole Office told me, because he said my description was nothing like that of the robber's description. But a line-up was never held.

Judge Benevides of the 187th District Court appointed Mr. Fred Semann after I signed a "pauperis affidavit," stating that I was too poor to hire Counsel. No request was made with the Court for the appointment of Mr. Semann. His name just coincidently came up in the alphabetical order on the calender of the Court. (This was according to Judge Benevides).

I had not know that Mr. Semann had been appointed at the time I was allowed to call home from the jail. When my wife answered the telephone she was crying almost hysterically. She told me that Mr. Semann had called her and cussed her out because she had gotten Judge Benevides to appoint him to my case. She had not known about the appointment; had made no contact with Judge Benevides whatever.

A few days later Mr. Semann filed a Motion with the 187th District Court to be dismissed from my case. Judge Benevides granted the Motion and apoligized to Mr. Semann, explaining about the alphetical order system on his calender for appointing Lawyers. This occurred about March 15, 1972. No other Lawyer was appointed until late in August, 1972.

On April 19th, 1972, I was indicted as cause number 72-777, charging me with the robbery of one Melvin Baumann on or about January 17, 1972.

On May 18th, 1972, the indictment was dismissed and I was released from the Bexar County jail. That same evening before I was released, Mr. Rocha came to the jail and called me out to the Attorney Room. He told me that he could file a motion for dismissal if I wanted him

to. I advised Mr. Rocha that I had been kept in jail for three Months and that I did nothing against the law. I advised him that numerous witnesses in Corpus Christi had long ago tried to give statements and come to San Antonio to testify that I was with them in Corpus when the alleged robbery had occured, but that they were not allowed to do so and their statements were refused by the D.A.'s investigator who had went to Corpus and talked to the witnesses. By this time we had lost our home—which we were buying, our Battery Shop, our credit ruined, the kids had to be taken out of school and moved to Fort Worth near relatives, and my Wife had suffered a nervous "break-down," and our 5th Son was born while I was kept in jail. Because I did absolutely nothing against the Law; and was kept in jail for three Months while they knew I did not commit the robbery accused of; I told Mr. Rocha that I was going to file a lawsuit against the D.A.; that I did not want a dismissal; that I wanted a trial where I would very easily clear myself. I said this and much more to Mr. Rocha. His client, Ronnie ? whose last name I can not recall at this moment, Donnie Perryman was present and heard it all. About three hours later I was released and told the charge had been dismissed.

I went to Fort Worth where my Wife and Children had moved into a rented house. I told my Wife that I was going to file a lawsuit against the Bexar County District Attorney. She pleaded with me not to do so. I contacted two Lawyers in Fort Worth. First Mr. A.L. Wardlaw and then a Mr. Thompson who was in the same building. (Union Bank Bldg). Mr. Thompson heard me through and said we had a pretty good case to file. He told me to get hold of a Mr. Rudy Rice in San Antonio, and he would contact him for me initially to brief him on the circumstances. I told Mr. Thompson that I first had to try to re-establish my business in Corpus to establish an income—and then I would go see Mr. Rudy Rice.

The latter part of May, 1972, my Wife and I went back to Corpus Christi to try to find another place for a Battery Shop and a place to live. While we were there we talked to my parole Officer, Mr. Davidson, and I asked him if we shouldn't file a suit against the Bexar County District Attorney. He said we should. We then visited with Mr. and Mrs. Lee Beasley—who were two witnesses that I was with in Corpus Christi on the date of January 17, 1972, and at the time of the robbery in San Antonio. After they described to us the conduct of Mr. Billy Cunningham, the investigator for the Bexar County D.A.'s Office, who they said, tried every way in the world to discourage their testimonial support, I decided for sure that I would file a suit as soon as I could establish an income. According to the Beasleys and other evidence all put together, Mr. Billy Cunningham was—and is—guilty of criminal fraud.

While I was trying to get the Battery business re-established in Corpus, I got word from San Antonio on two different occassions that "they are thinking about re-indicting." I told my Parole Officer, Mr. Davidson, to tell the San Antonio Parole Officer, Mr. Sagert, who had conveyed the re-indictment threat, that I was going to file suit regardless of what they do. The date I received the last threat of re-indictment was about June 27, 1972. Later, after I was re-arrested, the indictment presented to me was dated June 7, 1972. This was cause number 72-1141.

I was re-arrested on June 29, 1972. On about August 16th or 17th, 1972, the Court appointed Mr. Maury Maverick Jr., for assistance. Mr. Maverick came to the jail and talked with me for about 30-45 minutes. I attempted to give a full account of the circumstances but he indicated that he didn't have time to hear it all. I did give him names of several witnesses in Corpus Christi. Before he left he ask me if they offered 15 or 20 years for a guilty plea would I take it. I told him that I didn't

commit the offense and would not—and could not—plead guilty. I told him that I wanted him to feel sure that I wasn't guilty if he was to defend me in Court. I asked him to talk to the witnesses and get statements from them.

On about September 1, 1972, I was brought before the 186th District Court, Judge Barlow. He and Mr. Maverick had a discussion at the bench while I sat in the jury box. I couldn't hear what they said. Mr. Maverick then came and told me that a trial date had been set for November 20, 1972. I complained that that was too long but rationalized that Mr. Maverick needed time to contact witnesses and obtain statements.

Between September 1, and November 20, 1972, Mr. Maverick came to the jail several times. Each time he suggested that I should plead guilty for 15 or 20 years, which he said, they had agreed to give me if I pleaded guilty. I kept insisting that I was not guilty and he kept insisting that I should plead guilty. At one time I asked him how, just how, can a man possibly plead guilty for something he did not do? And would he consider pleading guilty himself to the charge—because he was no less innocent than I. Finally Mr. Maverick told me if I didn't plead guilty that he would withdraw from my case. I told him to withdraw—and wrote him a letter to that effect.

Prior to the November 20th date, I prepared some motions on my own. Mr. Maverick would not consider filing any motions for me. He had reached a point of demanding that I plead guilty. The Motions that I prepared and filed with the 186th District Court—which was the Court Mr. Maverick told me that I would be tried in—were (1), a Motion to dispense with Court Appointed Counsel and be allowed to conduct my own defense; (2), a Motion for a Speedy Trial; (3) a Motion to

suppress the identification by Baumann; (4), a Motion for Discovery; and (5), a Motion to question Jurors individually.

On November 20, 1972, early in the morning before I left the jail to go to Court, Mr. Maverick approached me at the bars separating the outside lobby from jail prisoners, and motioned for me to lean closer to hear what he had to say. He said: "Now, when we get over there, don't tell the judge that you definitely wont plead guilty—like you've been telling me—tell him that you want the option left open until the last minute before jury selection." This is very close to a verbatim quote. When Mr. Maverick suggested this to me it made me angry. I told him that I would do no such thing and walked away from him.

When I got to the Courtroom, which was the 187th and not the 186th, none of my witnesses were present. Mr. Maverick had assured me that they had been contacted and would appear. To my knowledge no subpoena applications had been filed for the November 20th date. In the early stages of this ordeal I really didn't think subpoena would be necessary. The witnesses needed only to be told when to appear. Through my wife I had made contact with the witnesses and all indicated that they were ready to appear and testify. Later I was to learn that Mr. Maverick had told the witnesses not to appear on November 20, 1972, that the trial would be put off until after the first of the year. He did this, plus, it was indicated to me by some of the witnesses, that he was trying to discourage them from testifying for me. He went to one witness and suggested that "the others aren't sure about the date they were with Wiggins," or words to this effect. And then he would go to another witness individually and tell him the same thing, apparantly attempting to condition the witnesses to begin doubting with the time lapse.

When Judge Benevides called my name from the docket I stood up to answer. But Mr. Maverick jumped up and announced the following: "Your Honor, I've got witnesses in three cities in Texas, two other States, and maybe one in Germany, and we are just not ready for trial." This was an out and out lie. I interrupted and told the judge that that wasn't true; that I had been pleading for a speedy trial while the witness were still available; and that I wanted to conduct my own defense. Judge Benevides then told me that another Lawyer, in addition to Mr. Maverick, had been appointed to assist, and that he had to have time to prepare for my case. The other Lawyer was James Ingram. Judge Benevides then set a date to hear the Motions that I had filed, for December 7th, 1972.

Prior to December 7, 1972, Mr. James Ingram appeared at the jail and had a stack of papers in his hand. He said there were some motions that I needed to sign. We were standing up near the counter of the officers' cage on the 7th floor of the Bexar County jail. Mr. Ingram quickly shuffled through some of the papers and stopped on the pages that he wanted me to sign. Some were genuine motions. One was a motion to stipulate a statement by T.V. personnel that the "Bob Hope Special" was aired on T.V. in Corpus Christi at 8:PM on the 17th day of January, 1972. This was one of the elements Truman Beasley had been able to identify the date and time that I was at his home in Corpus Christi. He had remembered me being there when this particular show came on. But among the papers Mr. Ingram wanted me to sign there was another stipulation. It was a false report that someone had made out to indicate that my Son, Eddie, was stopped in the back alley of an H.E.B. store, in our car, on the night in question. Our son had been given a ticket in Corpus on that date, as he was comming out of another store in the neighborhood. He was not in any back alleys. He had simply went into the store—and it was not an

H.E.B. store—to get a bag of potato chips and a coke. When I saw this I told Mr. Ingram that that was false. He said it didn't really matter, that the important thing was that it showed our car was in Corpus Christi and not in San Antonio involved in the robbery as alleged. But I insisted that this was designed by someone to make it appear that my Son and the car were observed under shady circumstances on the same night that a robbery had been committed in San Antonio. I would not sign anything he had. He had actually tried to trick me into signing these papers, and when I caught the false one, he appeared very nervous. At this stage of this ordeal I became absolutely certain that there was a genuine conspiracy between the Lawyers and the Prosecutors Office to convict me.

On December 7, 1972, I was brought to the 187th, Judge Benevides presiding. This was supposed to be a hearing on the five Motions that I had filed. Concerning the Motion to dispense with the Court Appointed Lawyers, I took the witness stand and testified for about two (2) hours. I described the conduct by Mr. Maverick in detail and also described Mr. Ingram's efforts to trick me into signing the false report about my son. I testified that I had no choice but to defend myself—and that I felt that I had that right. Judge Benevides denied my motion to conduct my own defense and I noted my exception thereto.

As soon as I got back to the jail from the December 7th hearing, I started preparing a Writ of Habea Corpus appeal from Judge Benevides' denial of the Motion to dispense with Court Appointed Counsel and defend myself. I actually had to smuggle this document out of the jail because some personnel at the jail was stopping all my mail that had anything to do with preparing for my defense. (I filed a suit in Federal Court about this). I mailed the writ directly to the Court of Criminal Appeals. In the meantime, Mr. Maverick and Mr. In-

gram came up to the jail several times suggesting that I had an emotional problem—and always stating that "I feel very sorry for you Mr. Wiggins; and expecially about your son." Mr. Maverick had a peculiar characteristic about him. Almost invariably when he would lie about something, or attempt something false, he would follow up with some sincere sounding phrase like "I truly feel sorry for you, I know how you have suffered in this jail," and, "I can understand why you would have an emotional problem, having been through so much," Etc... On November 20, 1972, the date I was supposed to have went to trial, after Maverick announced: "Your Honor, I've got witnesses in three cities in Texas, Two other States, and maybe one in Germany," he said something like: "...I feel sorry for Mr. Wiggins—and especially his little boy ... but your Honor, I know I am right!" This was Mr. Maverick's response to my telling the Judge that what Mr. Maverick had said about witnesses in other States, etc., was not true—and that I wanted a trial. I didn't hesitate to tell Mr. Maverick that I was aware of his efforts to do me harm. He got to where he didn't deny it—or even try to hide his efforts anymore. He confided in me once that he didn't like doing what he was doing and I asked him why he as doing it. He said 'I don't want to talk about it anymore.' He was a little inebriated during some of the confrontations I had with him. Once I told him that he knew as well as I that they were determined to convict me for one reason. And that was to prevent me from filing an effective suit against the D.A.. I told him that we, my wife and Children had suffered a great deal—and we lost everything—and before they went any further with this illegal conspiracy, that I would settle now for a minimum compensation and go home to my family and forget about the whole thing. He said he would talk to them. The next day he returned to the jail and said: "Well, they turned down your proposal." I asked him who are they? He said: "I wont talk about it

anymore." He never did—except he did admit this to Chaplain Christian Kehl, the jail Chaplain who was trying to help me.

Because Judge Benevides treated my motions so arbitrarily, I had my doubts about him being a fair Judge. I devised a test to find out for myself. When Mr. Maverick and Mr. Ingram were at the jail one day I ask them if they thought Judge Benevides would allow me to defend myself if I waived the jury. They jumped on this with both feet. They began telling me all the advantages of waiving the jury—and that Judge Benevides would give me a fair trial. Mr. Maverick and Mr. Ingram both, really went overboard with this suggestion. I told them that I had not decided for sure and would decide only if I got a letter from Judge Benevides himself stating that I could defend myself if I waived a jury. The very next day I got a letter from Judge Benevides stating that if I waived trial by jury I would be allowed to cross examine and interrogate witnesses within legal limits, etc... I sent this letter to the Board of Pardons and Paroles, as I had sent several important documents to them for safe keeping. The Parole Board was the only State Agency that I had any faith in. This "test" settled any doubts about Judge Benevides. I wasn't about to waive a jury trial.

The Court of Criminal Appeals re-directed the Writ of Habeas Corpus Appeal that I had sent to them, to the 187th District Court. I received a copy of the transmittal letter sent to Judge Benevides, requesting that he hold a hearing on the issue of self defense. Judge Benevides set a hearing date for January 11, or 12, 1973. At the hearing I testified for about two (2) or three (3) hours about the conduct of Mr. Maverick and Mr. Ingram. I gave detailed testimony from notes that I had made during the Months that I had to contend with so much of their trickery and attempts to discourage my witnesses. I found it difficult—and I still

do—to describe the incongruous conduct and manner of Mr. Maverick. I introduced several letters from my Wife about Mr. Maverick; and letters by Mr. Maverick himself. He had told my Son, the oldest, who had had our car throwing his paper route in Corpus Christi during the evening in question, that "... your Father claims you had the car in Corpus Christi ... while others and Police ...claim it was in San Antonio during a robbery..." and "...your Father may have to spend the rest of his life in prison...," etc.. These letters and others were introducted while I was testifying at the January 11, or 12, 1973, hearing.

A Lawyer, Mr. Gerald Goldstein, filed a "Memorandum of Law" at this hearing. He stated that I had the right to defend myself and cited cases. Judge Benevides ruled that I could conduct my defense but would have to accept the assistance of the two Lawyers also. I insisted that Mr. Maverick and Mr. Ingram were working against me and were part of the prosecution, and that their presense alone would be detrimental to my defense. Judge Benevides stated that I was going to get their help whether I liked it or not. I objected and "excepted."

A few day after the January 11, or 12, 1973, hearing, the jail officials moved me into a solitary cell that was about four (4) feet across and six (6) feet long. This, they said, was necessary because some law books was being brought up to me for study and preparation for trial. For several days following Mr. Maverick and Mr. Ingram brought up a stream of pamplets, sheets, and one book. Each time either of them brought so much as one single sheet, they would require me to sign for it. They would not bring the one book that I requested; the Texas Code of Criminal Procedure. I was kept in that cell for some two Months after the trial.

A few days before trial, which was set for January 29, 1973, Mr. Maverick came up to the jail to talk to me. He asked me if I got out of this would I "come around his place and try to kill him." I was really taken back by this. Never once did I threaten him, or even suggest a threat. The most I ever called him was a "hypocrite." I felt such a heavy burden for him at that moment. I tried to persuade him that I represented no kind of danger to him or anyone else; that I wasn't capable of doing violence to another. But this worried me quite a lot. If he thought that I represented a threat to him., what would he do to assure his safety? I went through much contemplation about Mr. Maverick's fear. Each time I came out with nothing but sympathy for him. I was angry at him several times—and frustrated—but I've never hated him. As I think about it now, I'm sure that Mr. Maverick sensed that I could never do him physical harm. I never have inflicted physical violence upon anyone in my entire life. The "Rap Sheet" on me which reads "Manslaughter," in Okla. in 1957, involved an automobile accident. Later dismissed. I wasn't even the driver of the car.

On January 29, 1973, I was brought to Court for trial. The important witnesses were there to testify that I was in Corpus Christi on the date in question. During the Voir Dire of the jury panel, I was standing before the group when Mr. Maverick rushed up to me and said something like: "Mr. Wiggins, your son Eddie has had an accident—he's in critical condition in the hospital at Brownwood—don't you want to plead guilty for this 20 years!" He said this loud enough for some of the jurors to hear. I went to the judge and ask for a recess. I did not ask for a mis-trial pursuant to Mr. Maverick's conduct in the presense of the jury panel. It wasn't until later, upon reflection, that I realized the prejudicial effect his comment might have had on the jurors. Even though I was on guard for anything the Court Appointed Lawyers might do, knowing full well at this

stage that they were deliberately working against me, I was unable to cope with much of their conduct, and some things they did.

After thirty two (32) prospective jurors were selected, I was taken, in handcuffs, to a side room to the court to make the ten (10) pre-emptory challanges. I took the strike list and made my ten (10) strikes holding my left hand over my writing, not allowing the Court Appointed Lawyers to see the names that I was striking from the list. They, especially Maverick, talked to me a lot while I was deciding which jurors to strike. I asked Mr. Maverick to leave me alone. I had told them both that I would not allow them to see the names that I decided to strike. After I finished and signed the strike list, and turned it over in front of me, Mr. Ingram, who was standing across from where I was seated on the other side of the table, reached for the list and said he would take it out to the Clerk. I told him no, that I would take it out myself and turn it in at the same time the Prosecutor turned his list in. They both laughed at me. While Mr. Maverick was getting my attention, talking about the witnesses to call, advising me to call all the Police witnesses from Corpus Christi, Mr. Ingram reached across the table and grabbed the strike list and rushed from the room. I hollered at him but he didn't stop. Mr. Maverick, who was seated to my left, started talking to me, playing the situation down, and assuring me that everything was O.K.. Mr. Ingram came back in a few minutes and told us that "they didn't cross a one." I went out to the Courtroom a few minutes later and ask for a mis-trial. Judge Benevides said he was present when Mr. Ingram brought out my list and said: "they didn't cheat, I watched them." I filed a written "Bill of Exception" to this particular incident. With 32 prospective jurors qualified, less the 10 I struck, the Prosecutor picked the jury from a panel of 22.

At the outset of this trial in cause number 72-1141, comming nearly one year from the date of my initial arrest, despite my repeated requests and demands for a Speedy trial, I realized that someone in the Bexar County District Attorneys Office had gone to a lot of trouble, had committed fraud, and had gone too far to allow me to get an acquittal. This worried me, but my witnesses were there and I felt confident. At the beginning, however, one witness, Mr. Truman Beasley who was Assistant Advertising Director for the Corpus Christi Caller Times, was not subpoenaed. Some of his relatives were there and I asked them to call him. They did, and Truman Beasley advised them that he would have to have a subpoena before he could leave the job. Since Truman Beasley was a key witness to my defense, (He testified that I was with him at my home at noon on the date in question and I was at his home that evening at about 8 PM), it was apparant that they, the conspirators, were attempting to keep Mr. Beasley from the trial. I announced in open court that I wanted the witness subpoened and if necessary, an attachment. Truman Beasley appeared the next day and testified. During a recess, while I was locked in a hold over cell near the courtroom, Truman Beasley came over to the window and talked with me through the little speakers just below the window. He told me that Mr. Maverick had talked to him several times—and that he got the impression that Mr. Maverick was trying to discourage him to testify for me. Lee Beasley, the brother to Truman, told me about the same thing. All the witnesses told me that Mr. Maverick had told them not to appear for trial on November 20, 1972; that the trial would be set off until after the first of the year.

Throughout the proceedings of this trial, January 29, 30, and 31, 1973, Mr. Maverick interrupted me with suggestions. On several occassions he handed me copies of the false report made out on my Son, which indicated that he had been stopped in the back alley of an H.E.B.

store in Corpus Christi on the same night of the alleged robbery in San Antonio. He insisted that I introduce this as evidence that my car was in Corpus Christi on the night in question. That report indicated that my son was stopped by Corpus Christi Police at about 10 PM under those circumstances. Actually,he was stopped at a neighborhood store as he came out with a coke and potato chips. He was never in any back alley. The report was made out falsely to suggest that my son and car was observed in Corpus Christi under shady circumstances on the same date of the alleged robbery in San Antonio. This was designed to force me to forego evidence that, if presented in the true perspective, would have been helpful to my defense. To establish that my son and car was in Corpus Christi; that my son used our car to throw his paper route on the evening in question; I would have been required to submit a false report—or see the Prosecutor submit it—that would indicate that my son was observed in the back alley of an H.E.B. store in Corpus Christi. They had a Policeman from Corpus Christi to testify to this false report. They knew our son was in the hospital and unable to attend the trial. The records—the genuine records—on file with the Corpus Christi Police Department show that our son was stopped as he was comming out of a neighborhood store (Not an H.E.B.) on the evening in question. The street address on the ticket issued my son on the evening in question is not even the same street as the H.E.B. store. This bit of fraud, I'm sure, was the "genius" work of Maury Maverick. He had numerous copies of the false report during the trial, and on two successive occassions he handed me copies trying to persuade me into introducing the same into the evidence. Each time I pretended courtesy and thanks to him and stuffed the reports in my folder. Because of the circumstances, I felt that I needed to at least pretend, for the jury, that the Court Appointed Lawyers were assisting me. I knew I couldn't just get up and try to tell them the truth; that the Lawyers were working with the Pro-

secutors. They would have thought I was some kind of "nut." At another time Mr. Maverick tried to introduce the false report himself. I grabbed it and told Judge Benevides that I did not want to it. I kept that copy also. Later I sent one or two copies of the false report to the Board of Pardons and Paroles in Austin. I know that sooner or later I will be able to prove that this was a falsified report. (If the Board has kept all the records that I sent them, and I intend to subpoena them if I ever get a hearing, there should be substantial evidence to prove some of my allegations).

During this trial, on January 29, 30, 31, 1973, on two separate occassions, very unusual circumstances occurred that had to have been pre-planned between the Lawyers, the Prosecutors and Judge Benevides. When the Complaining witness, Melvin Baumann, took the witness stand, I immediately ask for a hearing out of the presense of the jury to examine the witness on pre-trial identification procedures utilized by police with photographs. As soon as I asked for this hearing out of the presense of the jurors, without one word being said, Judge Benevides began motioning with his hands. With this motioning, and nothing more, the Court Reporter, Lois Sulsar, the Prosecutors and Lawyers, began forming a huddle to the left of Judge Benevides' chair. They motioned for me to come over there. The jurors sat and watched. I was totally dumfounded by this. They, Judge Benevides, the Lawyers & Prosecutors, huddled around the Court Reporter, heads down, talking something, just meaningless words that I couldn't even understand, while the Court Reporter took down something that would propably be put into dialogue later. I bent over once to hear Judge Benevides say: "Motion denied and overruled," and that ended the "hearing." This same thing occured later when the Prosecution called Patricia McCray, the 12 year old girl who testified that she was present when the alleged robbery occured; and was there when the Police arrived, but

didn't talk to them; and when she was back in the store some two weeks later, an employee just happened to walk up to her and ask her if she was present when the robbery occured; she said she was and two more weeks—or "a Month" later two Detectives came out to her trailer home and brought some pictures from which she said she identified my picture. In this huddle-hearing I objected strongly to their use of a child swearing under oath falsly; that she may have realizations later on in her life and experience feels of guilt. There is no question, she was induced, knowingly, to bear false witness under oath to God. That they would use a child to do this, put me on notice that they would do anything—absolutely anything.

During the afternoon of the second day of this trial of cause number 72-1141, after all the testimony was in, judge Benevides ordered a recess for the day. He instructed the jurors to go home and return the following morning at 9:AM. I objected to their separation and requested the charge be read and the jury sequestered for a verdict. It was around 4:PM. I was sure they, the jurors, would be gotten to. They were, by Mr. Maverick. The next morning they returned and deliberated for 7 minutes for a guilty verdict. I requested judge Benevides to allow me to ask the jurors if anyone had contacted them outside the Court and he refused. I then requested that he ask them and he refused this, instructing me to "consult your Court Appointed Lawyers." I then ask Mr. Ingram and he shook his head saying it wasn't allowed. Then I ask Mr. Maverick and he said: "write them letters." Believing for certain that the jurors had been contacted outside the Court and influenced in some way, by someone, to believe, or think, that I was guilty, I began work to get someone to interview those jurors to find out how they were influenced and by whom. A few days after the trial a small article appeared in the newspaper indicating that the jurors considered a prior conviction in my case before finding

me guilty. Subsequently, I was able to get some of the jurors back into the court to testify. On March 2, 1973, Juror Robert Brooker, of 243 West Ware Blvd., San Antonio, Phone No. 922-6596, testified that he had been contacted by Mr. Maverick. He let this slip out when I ask him "when did Mr. Maverick contact you? When I asked him to explain Mr. Maverick's reason for contacting him; what he had said, etc., Mr. Brooker would not answer, he put his head down, and was extremely embarrassed. Judge Benevides stopped me from questioning Mr. Brooker and I never got any answers to my questions. The records of this hearing, I think, were destroyed. I included these in my request for designated matter for inclusion in the record on appeal but I didn't get them—as well as other missing matter that I had requested.

Also, on March 2, 1973, I questioned another juror named Elias Bernal, of 526 Park Field Dr., San Antonio, phone no. 674-3084, and when I ask him if Mr. Maverick had contacted him outside of the Court, he hesitated a long time before answering that he hadn't.

About two weeks after the March 2, 1973, hearing, I received word from an Officer who worked at the jail that two of the former jurors had indicated to him that they would appear in Court and testify that they had been contacted and influenced in their verdict and/or that the Jury Foreman, Marvin E. Nation, during the 7 minutes deliberations, passed around "some kind of rap sheet indicating the criminal record of the Defendant." From this, I filed an Application for writ of Habeas Corpus in the 73rd Judicial District Court, The Honorable James Onion, requesting a hearing where two former jurors could appear and testify. I also asked Judge Onion to appoint Assistance of Counsel, hoping that I could get some honest assistance. I believed the Criminal District Courts in Bexar County were totally corrupted. I was desparate to find an honest Judge in Bexar County. I believed Judge Onion was.

A few days after I filed the Writ in the 73rd District Court, Judge Onion Appointed an Attorney named Stewart Alexander. Mr. Alexander came to the jail and talked to me. He said he would talk to the jurors and if they indicated there was jury mis-conduct he would request a hearing. Within a week thereafter I was taken to the Magistrate and advised that I was charged with the same alleged offense that I was then convicted of and on appeal. This was on March 22, 1973. I told the Magistrate, Judge Gutierrez, that I was then convicted of that charge and on appeal; and that I had already been indicted twice for that same charge as cause number 72-777 & 72-1141. He ask me if I wanted an Examining trial, and I told him that I did. But I never got an Examining trial. The following day, March 23, 1973, I was taken to the 187th District Court. A Lawyer named Patrick Burke, whom I had never met, had filed a motion, without my knowledge, to "Set aside the Judgement & Sentence, to grant a New Trial on the Court's own Motion," Etc.. Judge Benevides had Appointed Mr. Burke for this purpose only. I was on appeal and I did not ask for the appointment of Patrick Burke. Also, at this hearing, Judge Benevides dismissed the cause and ordered me discharged. At this stage Judge Benevides did not have the authority to dismiss the cause or order my discharge. Only the Court of Criminal Appeal could have legally did this. Notwithstanding his order to discharge me, I was kept under arrest, returned to the jail, and the following week, on March 28, 1973, was presented with indictments 73-CR-648 and 73-CR-653, charging me twice more with the same alleged offense.

Mr. Stewart Alexander came back to the jail and advised me that the writ was now moot since the conviction had been removed. He gave me some legal advise, impressed me as being sincere, and left. Later, after the third and fourth indictments, I requested Judge Archie Brown to appoint Mr. Alexander to assist me. Judge

Brown appointed another Lawyer named Ben Samples instead. Ben Samples assisted Norvel Graham and the prosecution in the subsequent trial and re-indictment No. 3.

On about April 13, 1973, I was brought before the 144th District Court, Judge Archie Brown, for Arraignment on the two indictments, cause numbers 73-CR-648 & 73-CR-653. Except for the numbers the two indictments were identical and represented numbers three (3) and four (4), presented by three (3) different Bexar County Grand Juries, charging me with the same alleged offense that I had no more knowledge of than the POPE. It became obvious to me that Bexar County Grand Juries were controlled by the D.A.'s Office. (During the two trials I ask each witness if he or she appeared before any Grand Jury and testified. Everyone answered no.). I requested that the indictments be read and that I be allowed to plead to them. Judge Brown ordered the Clerk to read them one at a time and to each I pleaded not guilty. Judge Brown asked me if I wanted a Court Appointed Lawyer and I told him that I did not. But later I requested that Stewart Alexander be appointed. Judge Brown appointed Benjamin Samples instead. On one other occasion, because I was unable to obtain any law books for legal research, I wrote Judge Brown to appoint a Lawyer to prepare a memorandum of Law on the issue in connection with the multiple indictments and a second prosecution for the same alleged offense. I received no response from this request.

A trial date was set for June 4, 1973, in the 187th District Court, on the cause numbers 73-CR-648 & 73-CR-653. Judge Richard Woods was sitting for Judge Benevides who was in the Hospital. The Prosecutor, Fred Rodriquez, indicated to Judge Woods that he would try me on cause numer 73-CR-648. I asked that the other, the 4th, cause number 73-CR-653, be dismissed. Judge Woods said he would get to that in time. But

cause number 73-CR-653 wasn't dismissed until several Months after this second trial and conviction. I was kept in the Bexar County jail until March, 1974, while on appeal, demanding that I be transferred to the Texas Department of Corrections while appeal was pending, like everyone else was who had a sentence over 15 years. The Jail Administrator called the 187th Clerk and asked why I shouldn't be transferred to the TDC and the Clerk told him that I was going to be tried on that other indictment in three or four Months. I showed the indictments to the Jail Administrator and he said I could use the telephone to call the court Appointed Lawyer, Ben Samples (Who had told me that the indictment had been disposed of). When I called Ben Samples, he advised me that "they arn't going to dispose of that indictment until they are sure the conviction will stick on that other one." I told him that they were all absolutely crazy and hung up. I was kept for nine (9) Months in the Bexar County jail, after the second trial, on the fourth indictment, cause number 73-CR-653, which alleged the same identical, word for word, accusation as the other three (3) indictments. Their purpose was to keep me and control my efforts. There were times I believed they would have me killed because of the criminal fraud they had committed. I still think they considered this as a last resort.

The trial of cause number 73-CR-648, under which I presently stand convicted with a life sentence, began on June 4, 1973. As soon as I got to the Courtroom that morning Norvell Graham approached me and introduced himself. I had never seen him before in my life. He advised me that he had been appointed to assist me. I talked to him a few minutes, asked him some questions, and told him that I wasn't going to accept his assistance. He was very aggressive and indicated to me that he was going to assist me in the trial whether I like it or not. I complained to the Judge that I didn't want Mr. Graham's assistance and asked that Mr. Graham be

dismissed from my case. Judge Woods denied my request and then I requested that he instruct Mr. Graham to not interrupt me as I was trying to defend myself. Judge Woods refused this also, saying that he was not going to instruct the Lawyers out from under their duty. I objected and excepted; and pleaded with the Court that the Lawyers were a part of the Prosecution; and were there for no other reason but to do me harm. I argued this issue before the jury selection began. Also, before jury selection began, Mr. Graham brought me a waiver of the ten days preparation period to sign. I told him that I wouldn't sign anything in connection with his appointment to my case. He said if I didn't the Judge would automatically set the trial off. At that stage It had been 15 and a half Months since my initial arrest. I was sick of the jail and desparate to get out of Bexar County; and I knew that most of the witnesses that I needed was still available for subpoena. I had filed subpoenas for all of them. So I signed the waiver of the ten days. Again, before the jury was selected, I asked Judge Woods to allow me to conduct my defense without Mr. Graham's assistance. I asked that Mr. Graham be removed from my case entirely. Before this request Mr. Graham had already made sarcastic remarks to me. I asked him what right he had to just force himself on me against my will. He said: "Because your a got-damned ex-con, thats why!" Judge Woods again refused to remove Mr. Graham; and again refused to instruct Mr. Graham not to interrupt or initiate any motions on his own. At one point I asked Judge Woods why was I required to have two Lawyers for assistance when I had elected to conduct my own defense; and pointed out that almost all the cases tried of indigents in Bexar County, only one Court Appointed Lawyer was assigned to each case. Here, I was trying to defend myself and two Lawyers are forced on me against my will and over my objections. Judge Woods said he didn't have to explain the Law to me; that he only made rulings. Most of this type of dialogue was omitted from

the record—as I knew it would be. I had to utilize times when witnesses were present to initiate verbal motions and objections so I could be reasonably sure that at least some matter would be kept in the record. A great deal was deleted and testimony by some witnesses actually changed. But enough, I think, was retained, unless further alterations were made after I filed my appeal brief.

After the jury was selected and trial got underway, Mr. Graham took the chair directly behind me. Mr. Samples took the next chair back. Every time I started to cross-examine a prosecuting witness, Mr. Graham would punch me and start whispering in my ear. This was almost constant. I tried the "mind over matter" principle, but was unable to ignore Mr. Graham. Most of what he said was nothing but gibberish. This was such an incongruous experience. Many times throughout the proceedings I complained to Judge Woods about the constant interruptions by Mr. Graham. Finally, Mr. Graham said: "Well, I'll take the third chair," or something to that effect. Then Mr. Samples moved directly behind me and started doing the same thing. At one point, I got so sick of this, I grabbed by chair and scooted it out and away from the table and the Lawyers. Again and again I asked Judge Woods to instruct the Lawyers to leave me alone. He simply would not. I asked him specifically to instruct the Court Appointed Lawyers not to move for mis-trials. Finally, he did this. But Mr. Graham moved for mis-trials anyway, after the Judge instructed him not to. On one occasion I openly objected to Mr. Graham's verbal motion for a mis-trial. This done out of necessity in the presense of the jurors precluded it's omission from the statement of facts.

Judge Woods called a recess about every 20 or 30 minutes. During these periods Mr. Graham would walk around my chair back and forth, cussing me. He would

say: "You aint no Lawyer! You aint nothing but a got-damned ex-convict!" He was very abusive and aggressive. I believed he was attempting to provoke me into some beligerent conduct so that I may be relieved of my right to self defense; or just to keep me upset and confused. I found myself defending more from Mr. Graham than from the accusation itself.

Before the trial I had talked to Mr. Samples. I knew, beyond any doubt, that he was working for the Prosecution. But I knew that I would be required to have him with me during the trial. Mr. Samples wasn't about to do anything for me. But I didn't think he would be able to give me much trouble because he was not that aggressive. But I didn't think that it would appear appropriate to the jurors—especially Mr. Samples being a Negro—for him to just sit there. So, several days before trial, I had asked Mr. Samples if he would take notes during the trial and make a summary to the jury. He said he would. But when the time came for closing arguments Mr. Samples said that Mr. Graham would do this. I did not ask Mr. Graham, at any time, for any purpose, for his assistance. I did, however, acqiescence to his making a summary to the jurors. My thinking at the time was that the jurors had surely perceived that Mr. Graham was working against me; but they heard the evidence; so let them judge Mr. Graham for themselves.

Before arguments began, during examination and objections to the Court's Charge, I had objected to the charge on the principle of "Alibi," since my witnesses were not subpoenaed and I did not present an alibi defense. (I had one alibi witness available, but did not elicit alibi testimony. I omitted this deliberately to prevent rebuttal testimony by the 12 year old girl, Patricia McCray. But the Prosecution called her anyway). My argument to the Court was that it would not be appropriate to charge the jury on the principle of alibi since I did not, in fact, establish an alibi defense. Judge

Woods agreed to delete that portion from his charge. But Mr. Samples argued against me that it should remain in the charge. Judge Woods changed his ruling and went with Mr. Samples. I objected and "excepted." (later, when I got the transcript, I noticed the argument between Mr. Samples and I, over this issue, and the double ruling by Judge Woods, had been deleted.).

When Mr. Graham got up and started his closing arguments to the jury, the first thing he said was something like: "Ladies and Gentlemen, this 60 year old man over here ...," and motioned toward me. Mr. Graham actually mumbled almost throughout his closing statement to the jury. The circumstances were very peculier—and I'm sure the jurors would remember this. The Court Reporter, Valdamar Castano, moved his chair and machine very close to Mr. Graham trying to hear and understand him. (About the age aspect. It had been established that the robber was "about 67 years old." My age on the date in question was 43. The picture they used to get the witness committed to making an identification of me was one made of me when I was 39 years old.). When I got the Transcript about a year later it indicated Mr. Graham made an excellent closing statement. The fact is, I couldn't say for sure what all Mr. Graham had said. Except when he motioned toward me, indicating to the jurors that I was a "60 year old man," I heard and understood very little of what he said. Mr. Graham's manner during his closing statements was very peculier. I am certain the jurors—at least some of them—would remember this. I watched them while Mr. Graham was "talking" and many of them had curious expressions. (The Jury deliberated more than 22 hours).

I made a closing statement, arguing several discrepancies in the case, and particularly requested the jurors to look into the eyes of the Prosecutor who would be argue-

ing that I was guilty; that he, the Prosecutor knew that I was not guilty; and they would be able to perceive of this if they would look into his eyes. After making my closing statement I sat down. Just as I sat down, Mr. Samples began slapping me on the back, saying loudly: "Good Show! Good Show!" This was to break the silence—and pure thinking—that prevailed at the moment. For this brief period the jurors knew that I was not guilty; for they were perceiving the truth in myself in the same way I had asked them to perceive the falsity of the Prosecutor's presentation. The record omitted Mr. Samples slapping me on the back and shouting "Good Show! Good Show!" But it's for certain the jurors would remember this clearly.

I was found guilty by the jury. But only after more than 22 hours of deliberations. They sent back several questions. At one time Mr. Graham ask me if I would "cop" for five years. He said he could get a mis-trial and a plea bargain for five years. I told him that I wouldn't plead guilty for anything; under any circumstances. I got a life sentence. If I had it to do all over again, I would still have a life sentence.

I filed a motion for a new trial. This was denied by "operation of Law" because Judge Woods failed to hold a hearing. But, some 50 days or so after I filed the motion, I was brought into the 37th District Court where Judge Woods was presiding. Mr. Graham and Mr. Samples and the two Prsecutors were present. Samples told me it was a hearing on a writ of habeas corpus that I had filed with the Court of Criminal Appeals. But it wasn't. It was a "mock" hearing on my motion for a new trial. Mr. Graham tried to persuade me to take the witness stand and testify about "your Court Appointed Lawyers." The Courtroom was empty. No witnesses. They had done so much I didn't believe they would stop at falsifying a record of testimony by me if I took the witness stand without there being some objective per-

sons present to hear my testimony. This hearing had no legal value whatever, so I did not testify. Even so, a transcript of this moot hearing was made a part of the record on appeal. The record omitted the arguments that I made to get the Court Reporter, Lois Sulsar of the first trial (72-1141), summoned with her record to show what the testimony of my missing witnesses would have been.

While being kept in the Bexar County jail; and after having told Judge Woods that I did not want any Court Appointed Lawyers on my appeal; and unable to get any record; I asked that some Lawyer be appointed to assist me for the limited purposes of obtaining the record for appeal. It was November, 1973, when another Lawyer, Mr. Brock Huffman, was appointed—and it was the following year before I got any record at all. Much of what I had requested was missing. (I listed the missing matters in my appeal brief.). I attempted to get the rest of the records that I had listed in my "designation of matter for inclusion in the record on appeal" to no avail. Mr. Brock Huffman would do nothing in this regard. The part of the record that was delivered to me was totally overhauled. I received it after the time had expired to file objections to discrepancies in the record. I filed objections anyway and requested a hearing. As was everything else I filed, this pleading also was ignored.

After I filed my appeal brief, Mr. Huffman filed one also. His brief, which raised two of the same issues that I had raised in my brief, was used to circumvent the 21 issues that I had argued in my brief. On March 26, 1975, the Court of Criminal Appeals, through Commissioner Tom Davis, affirmed the conviction, saying simply, that "The Appellant's Pro Se Brief is totally frivolous and without merit." (There is no record at the Court of Criminal Appeals to indicate that "at least

three judges concurred" in the decision by Commissioner Tom Davis, as is required by the Texas Constitution).

In the past I have taken polygraph (Lie Detector) tests when applying for jobs. I know that I am highly vulnerable to those tests. I stand willing to take such a test by an objective Agency to the truthfullness of everything that I have stated in this affidavit. I would challange any or all the Lawyers, whose names I have mentioned herein, to take one also.

Carl Edwin Wiggins